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January 5, 2024

Hon. Ronnie Abrams  
United State District Judge  
United States Courthouse  
40 Centre Street  
New York, NY 10007

re: USA v. Ortega  
22cr91(RA)

Dear Judge Abrams;

At defendant's request [DKT #191] on December 4, 2023, your Honor ORDERED Ortega to remain housed at the MDC for at least 90 days [Dkt #192]. Ortega's direct appeal is pending in the Second Circuit [#23-7417] and Ortega's presence at the MDC is necessary for the preparation of that appeal. A copy of your Honor's Order was emailed to Ms. N. Khan of the MDC legal department on December 4, 2023 at 12:38 PM.

Nevertheless, on or about December 21st, the BoP shipped Ortega from the MDC to the Berlin FCI in New Hampshire. I have had multiple correspondence to and from the MDC legal department seeking Ortega's return to Brooklyn. Sophia Papapetru an MDC representative advised me Ortega was moved because:

"....We understand that the Court made a recommendation {hat} he remain, but we were unable to keep him here. We currently are subject to a population cap and we are over the cap. Additionally, the US Attorney's Office indicated this was

only a recommendation by the Court and supported movement if deemed necessary.”

In my subsequent communication with AUSA Michael Herman he stated his Office will not be involved in obtaining Ortega’s return to the MDC.

I write to again request the Ortega be held at the MDC for 90 days to assist in the preparation of the appeal of his conviction, and Ortega be returned to the MDC for that purpose.


Respectfully,



B. Alan Seidler

On December 4, 2023, the Court "respectfully request[ed] that Mr. Ortega remain housed at the MDC for at least 90 days." *See* Dkt. 192. Ultimately, however, "[a] sentencing court has no authority to order that a convicted defendant be confined in a particular facility . . . ; those decisions are within the sole discretion of the Bureau of Prisons." *United States v. Williams*, 65 F.3d 301, 307 (2d Cir. 1995); *see also Fournier v. Zickefoose*, 620 F. Supp. 2d 313, 317 (D. Conn. 2009) ("Once the individual has been committed, the BOP has discretionary authority both in determining the individual's initial placement and in directing the transfer of the prisoner from one penal or correctional facility to another."). The decision as to where to house Mr. Ortega thus rests with the Bureau of Prisons.

SO ORDERED.



Hon. Ronnie Abrams  
January 5, 2024